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MEMO ENDORSED

The Honorable Valerie E. Caproni
U.S. District Court Judge
Southern District of New York
40 Foley Square
New York, New York 10007
VIA ECF

July 9, 2020

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/9/2020

Re: *United States v. Patrick Avila, et al.*, 19-cr-166 (VEC)

Dear Judge Caproni,

I am CJA counsel to Leon Smalls in the above-captioned matter. I write to respectfully request an adjournment of Mr. Smalls' sentencing, currently scheduled for July 30 at 2:00 pm. This application is made with the consent of the government.

Both parties have already submitted their memoranda and the pre-sentencing report is complete. However, my client wishes to write to Your Honor and/or speak at sentencing, and I have been unable to meet with him to prepare for that in light of the current protocols. Also, in light of the virus situation, it seems unlikely that an in-person sentencing hearing will be possible for all parties in about three weeks from now.¹ Previously, Your Honor ordered that I could make this request on my client's behalf if the prisons were not allowing visitation as of July 1, and that appears to be the case (see Document # 179). As such, we respectfully request an adjournment until late September, or until a date the Court deems fit and convenient. Thank you.

Respectfully submitted,

_____/s/_____

Matthew Galluzzo, Counsel for Leon Smalls

¹ As the Court is no doubt aware, Section 15002(b) of the CARES Act allows for sentencing proceedings to be held via video teleconferencing and/or telephone conferencing only when the district judge "in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice." See also 20 Misc. 176 (CM), SDNY Standing Order No. M10-468 (authorizing the use of video or telephone conferencing for felony pleas under Rule 11 and felony sentencing under Rule 32 only upon a finding by the presiding judge that the "proceeding cannot be further delayed without serious harm to the interests of justice.") (March 30, 2020). My client faces a mandatory minimum sentence and has no objection to the postponement of his sentencing.



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Cc:

AUSA Jamie Bagliebter

VIA ECF

Application GRANTED in part. Sentencing for Mr. Smalls is adjourned to August 17, 2020, at 11:00 a.m. If there are still no attorney visitations by the end of July, counsel may request another adjournment.

SO ORDERED.

Valerie Caproni
7/9/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE